

**1. Requested Motion:**

**Meeting Date: October 15, 2012**

Motion to approve the requested change order number one for Zep Construction in an amount not to exceed \$29,250.98 for the Laguna Shores Dredging Project.

**Why the action is necessary:**

Town Council approval is necessary for expenditures of more than \$25,000

**What the action accomplishes:**

The action authorizes Zep Construction to dredge up to an additional 800 cubic yards of material to complete the Laguna Shores Navigational Channel

**2. Agenda:**

- Consent
- Administrative

**3. Requirement/Purpose:**

- Resolution
- Ordinance
- Other

**4. Submitter of Information:**

- Council
- Town Staff – Public Works
- Town Attorney

**5. Background:**

Tropical Storm Isaac shifted sediment into the entrance of the Laguna Shore Navigational Channel and created a new shoal which did not exist before the storm. This new shoal, while it is relatively small, is located at the entrance to the channel and would cause a navigational hazard to boats entering the channel and would greatly reduce the usefulness of the channel. Prior to Isaac, this entrance was much deeper. Staff is requesting approval of change order number one for the project to allow dredging an additional 100' to the east, up to an additional 800 cubic yards, and moving four channel markers slightly. An emergency authorization from the DEP to perform this work has been received. We are only seeking to dredge the entrance to -7' MLW to match the permitted channel depths. Due to the fact that the contractor is currently onsite and we would like to have them be able to do the work so we do not have to incur additional mobilization costs.

**6. Alternative Action:**

Do not approve the change order.

**7. Management Recommendations:**

Approve Request

**8. Recommended Approval:**

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Parks & Recreation Director	Town Clerk
						

**9. Council Action:**

Approved     Denied     Deferred     Other



TOWN of FORT MYERS BEACH  
LAGUNA SHORES CHANNEL DREDGE

BID NO. ITB-12-03-CD

**PART E**  
**FMB:011 - CONSTRUCTION CONTRACT**  
**CHANGE ORDER**

No.: 1

(A Change Order requires approval by the Finance Director and Town Manager for expenditures under \$25,000, approval by the Town Council for expenditures over \$25,000).

CONTRACT/PROJECT NAME: Laguna Shores Channel Dredge  
 CONTRACTOR: Zep Construction Inc. PROJECT NO.: ITB-12-03-CD  
 CONTRACT NO.: CC-12-03-CD BID NO.: ITB-12-03-CD  
 CHANGE REQUESTED BY: Keith Laakkonen, Environmental Sciences Coord. DATE OF REQUEST: 10/05/12

Upon the completion and execution of this Change Order by both parties to the Contract the Contractor is authorized to and shall proceed to make the following changes in the Contract Documents:  
(If you need space other than what has been provided, please attach additional sheets.)

Description: Modification to Laguna Shores Channel Dredge project—addition of dredging

Purpose of Change Order: addition of dredging to project site due to Tropical Storm Isaac

Attachments: (List documents supporting change) DEP Emergency Permit—Tropical Storm Isaac

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIME:
Original Contract Price \$ <u>239,750.56</u>	Original Contract Time <u>168</u> Calendar Days
Previous Change Order No. <u>1</u> to No. <u>1</u> \$ <u>0</u>	Net Change from previous Change Orders <u>0</u> Calendar Days
Contract Price prior to this Change Order \$ <u>239,750.56</u>	Contract Time prior to this Change Order <u>168</u> Calendar Days
Net <del>(increase)</del> (Decrease) of this Change Order \$ <u>29,250.98</u>	Net Increase (Decrease) of this Change Order <u>0</u> Calendar Days
Contract Price will all approved Change Orders \$ <u>269,001.54</u>	Contract Time with all approved Change Orders <u>168</u> Calendar Days

It is understood and agreed that the acceptance of this modification by the CONTRACTOR constitutes an accord and satisfaction, and represents payment in full (both time and money) for all costs arising out of, or incidental to, the above mentioned change.

RECOMMENDED:  
By: [Signature]  
Consultant (if applicable) Date: 10/13/12  
By: \_\_\_\_\_  
Department Director Date: \_\_\_\_\_

ACCEPTED  
By: [Signature]  
Contractor Date Accepted: 10/5/12

TOWN APPROVAL:  
By: \_\_\_\_\_  
Finance Director (Under \$25,000)  
Date Approved: \_\_\_\_\_  
By: \_\_\_\_\_  
Town Manager (Under \$25,000)  
Date Approved: \_\_\_\_\_  
By: \_\_\_\_\_  
Mayor, Town Council  
(Over \$25,000)  
Date Approved: \_\_\_\_\_

Contracts Management  
APPROVED:  
Town Attorney \_\_\_\_\_ Date \_\_\_\_\_



LAGUNA SHORES CHANNEL DREDGE PROJECT  
 CHANGE ORDER #1 BREAKDOWN TABLE  
 Contract #CC-12-03-CD

Item Description	Bid Quantity	Unit	Unit Bid	Unit Bid + 10% Change Order Markup	Unit Bid + 10 % Change Order Markup + .91% Bond Markup	TOTAL
CO#1 - Item 3 - Material Handling	800	CY	\$8.71	\$9.58	\$9.67	\$7,734.55
CO#1 - Item 4 - Mechanical Dredge	800	CY	\$21.13	\$23.24	\$23.45	\$18,763.61
CO #1 - Item 8 - Turbidity Monitoring	800	CY	\$2.63	\$2.89	\$2.92	\$2,335.46
CO #1 - Item 9 - Designated Manatee Observer	800	CY	\$0.47	\$0.52	\$0.52	\$417.36
<b>OVERALL TOTAL =</b>						<b>\$29,250.98</b>

7736  
 18760  
 2336  
 416  
 29,248

Accepted 10/9/12

NOTE: FINAL PAYMENT TO BE BASED ON COMPLETION TO THE DESIGN TEMPLATE. ORIGINAL VOLUME ESTIMATE @ 703 CY. (REFERENCE EMAIL 9/14/12 HANS WILSON TO KEITH LAAKKONEN)

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 ORIGINAL VOLUME ESTIMATE @ 703 CY.  
 (REFERENCE EMAIL 9/11/12 HANS  
 WILSON TO KETHI LAAKKONEN)

AD 10/19/12  
 703 cy = \$25,709.30 (Required)  
 970 cy = \$3,546.68 (contingency)  
 Total - 2000 cy = \$29,256.98

*[Handwritten Signature]*



# Florida Department of Environmental Protection

South District Office  
P.O. Box 2549  
Fort Myers, FL 33902-2549

Rick Scott  
Governor

Jennifer Carroll  
Lt. Governor

Herschel T. Vinyard Jr.  
Secretary

## EMERGENCY AUTHORIZATION

**Emergency Authorization Number:** 36-0194642-008-EE31

**Date of Issuance:** September 28, 2012

**Expiration Date:** September 28, 2013

**Authorized Entity:** Town of Fort Myers Beach

**c/o:** Keith Laakkonen, CFM - Environmental Sciences Coordinator  
[keith@fortmyersbeachfl.gov](mailto:keith@fortmyersbeachfl.gov)

**Agent:** Hans Wilson & Associates, Inc.  
[johanna@hanswilson.com](mailto:johanna@hanswilson.com)

- Project Location:**  
Big Carlos Pass - near Buccaneer Lagoon  
east (waterward) of Estrellita Drive and Little Carlos Lane  
Town of Fort Myers Beach, Florida 33931  
Section 03, Township 47 South, Range 24 East

**County:** Lee

**Latitude:** 26° 24' 30.0000"

**Longitude:** 81° 53' 2.0000"

Shoaling has occurred from Tropical Storm Isaac ("the Storm") within the public channel in Big Carlos Pass near Buccaneer Lagoon. This Emergency Authorization is issued in accordance with the provisions of the Florida Department of Environmental Protection Emergency Final Order, OGC No. 12-1453 ("the Order") dated August 27, 2012, for repairs, replacement, restoration and certain other measures made necessary by the Storm.

- This Emergency Authorization authorizes restoration of the shoreline as shown in the attached aerials or plans and/or as described below:

To restore by dredging the submerged land contours to the conditions and configurations that were legally existing immediately prior to Tropical Storm Isaac ("the Storm"), provided the restoration activities do not result in any expansion or deepening of waters beyond that which existed immediately prior to the Storm.

**Tropical Storm Isaac shifted sediment into the area located at the entrance to the Laguna Shores channel and created a new shoal which did not exist before the storm. Prior to the Storm, the channel entrance was much deeper as is evident on previous permit application submittals to the DEP.**

**In order to restore the conditions and configurations of the submerged land contours that legally existed immediately prior to the Storm the permittee is authorized to dredge an additional 100 feet to the east of the channel to -7' MLW (to match the permitted channel depths) via the removal of 800 cubic yards of material, and to slightly move four channel markers, as shown on the attached drawings.**

**All removed materials must be deposited on self-contained uplands and must be managed in accordance with Department rules or provisions of the Order**

3. The work authorized for this Emergency Authorization is subject to the following SPECIFIC conditions:

#### **SEVERANCE FEES FOR PRIVATE USE OF SPOIL MATERIALS**

- a. **Prior to commencement of dredging authorized by this permit, the Permittee shall provide to the Department (for written approval) the final spoil disposal site for the project. Should the spoil not be used for a public purposes, the Permittee shall remit payment (check or money order, please) to the Department's Fort Myers District office, P.O. Box 2549, Fort Myers, FL 33902-2549, for the severance of sovereignty, submerged land. Pursuant to section 18-21.011(3)(a)2, F.A.C., the fee shall be calculated at \$2.25 per cubic yard times the 800 cubic yards of sovereignty, submerged land to be dredged which is \$1,800.00. Please ensure that the file number (36-0194642-008) is included on the face of the check.**

#### **EROSION, SEDIMENTATION, TURBIDITY, AND WATER QUALITY**

- b. **All storage or stockpiling of tools or materials (i.e. lumber, pilings, etc.), including parking and staging areas, shall be limited to uplands.**
- c. **Prior to commencement of construction, turbidity screens shall be placed to contain any turbid waters generated from construction. The turbidity screens shall be maintained in functional condition, inspected daily, and shall remain in place for the duration of the project construction to ensure that turbidity levels outside the project construction area do not exceed the ambient water quality levels of the Outstanding Florida Waters, and do not contribute to impacts of**

adjacent wetlands or surface waters.

- d. The following measures shall be taken by the Permittee whenever turbidity levels within waters of the State surrounding the project site exceed the ambient water quality levels of the Outstanding Florida Waters:
  - i. Immediately cease all work contributing to the water quality violation;
  - ii. Modify the work procedures that were responsible for the violation and install more turbidity containment devices and repair any non-functioning turbidity containment devices; and
  - iii. Notify the Submerged Lands and Environmental Resource Permitting program of the DEP South District Office at (239) 334-5600 within 24 hours of the time the violation is first detected.
- e. All wetland and other surface waters that are adjacent to the specific limits of the project authorized by this Emergency Authorization shall be protected from erosion, sedimentation, siltation, scouring, excess turbidity or dewatering.
- f. Erosion and sediment control measures (best management practices) must be installed and maintained in accordance with the guidelines and specifications in chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (FDEP 1988), unless a project specific erosion and sediment control plan is approved as part of the permit previously issued for the site, in which case the practices must be in accordance with that plan.
- g. If site specific conditions require additional measures during any phase of construction or operation to prevent erosion or control sediment, beyond those specified in the erosion and sediment control plan, additional best management practices shall be implemented as necessary, in accordance with the specification in chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (FDEP 1988). Any erosion or shoaling that causes adverse impacts to the water courses shall be corrected.
- h. Upon final completion of the project and upon reasonable assurance that the project is no longer a potential turbidity source, the entity authorized herein shall be responsible for the removal of all turbidity control barriers.

#### DREDGING

- i. All dredged material shall be deposited on a self-contained upland site that is designed and maintained to prevent runoff from being discharged into wetlands and other surface waters.
- j. Dredging shall be limited to the depths, widths, and distances necessary to

restore contours as existed before the Storm, and as shown in the attached drawings or as otherwise described in this authorization.

- k. No additional dredging is allowed other than to remove the sediment which was deposited from the storm.
- l. Control devices shall be used at the dredge site to prevent turbidity from discharging into adjacent waters.

#### DOCUMENTATION OF COMPLETION OF WORK

- m. Within 90 days of completion of the construction or restoration activities authorized, written notification shall be provided to the South District office that the construction or restoration has been completed. Notification materials shall include the name and emergency authorization number, and color photographs taken from fixed reference points depicted on a plan view drawing showing the entire completed activity.

#### 4. The work authorized for this Emergency Authorization is subject to the following GENERAL conditions:

- a. The Submerged Lands and Environmental Resources Program has reviewed the information you provided and determined that your proposed project is authorized pursuant to Chapters 373 and 403 of the Florida Statutes, and, for activities located on sovereignty submerged lands, Chapter 253 and Chapter 258 of the Florida Statutes as applicable.
- b. This Emergency Authorization is effective as of the date of issuance shown above, and expires on the date of expiration shown above, unless otherwise extended by the Department. All work must be completed by the date of expiration (or by the expiration date of any extension granted by the Department).
- c. The work shall be performed so as not to violate water quality standards of the State as specified in Chapters 62-302, 62-520, 62-522, and 62-550 of the Florida Administrative Code, and as applicable, Sections 62-4.242 and 62-4.244 of Florida Administrative Code.
- d. This Emergency Authorization does not waive the requirements to obtain any other federal, state, or local permits or other authorizations that may be required.
- e. This Emergency Authorization shall be readily available at the project site to any duly authorized representative of the Department, the U.S. Army Corps of

Engineers, or any empowered law enforcement officer.

- f. This Emergency Authorization does not convey any property rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property or invasion of rights.
  - g. This Emergency Authorization does not authorize the interference with any existing or proposed federal project, and the authorized entity above shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused or result from existing or future operations undertaken by the United States in the public interest.
  - h. In accepting this Emergency Authorization, the applicant is solely responsible for compliance with the terms of the authorization. This project may be subject to a future compliance inspections.
  - i. This authorization does not grant any temporary or permanent impacts to wetlands or other surface waters for access to the immediate project site. To the fullest extent practical, all work shall remain within the footprints of the areas to be repaired, restored, or reconstructed.
  - j. All activities shall be implemented as set forth in the plans, specifications, and performance criteria as approved by this authorization. Any deviation from this authorized shall constitute a violation of this authorization and Part IV of Chapter 373, F.S.
  - k. This Emergency Authorization does not authorize reconstruction of any structures or land that were not legally existing before the storm. This authorization is granted based on the representations given to the Department by the applicant. In the event the Department determines that any of those representations were incorrect or falsified, the Department has the right to take appropriate enforcement action to remedy the situation.
5. Your activity is located on state-owned submerged lands. The activity must therefore also comply with all the following additional General Conditions:

**GENERAL CONDITIONS FOR ACTIVITIES LOCATED ON STATE-OWNED SUBMERGED LANDS:**

- a. Authorizations are valid only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use shall constitute a violation. Violation of the authorization shall result in suspension or revocation of the grantee's use of the sovereignty

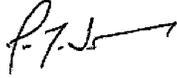
submerged land unless cured to the satisfaction of the Board.

- b. Authorizations convey no title to sovereignty submerged land or water column, nor do they constitute recognition or acknowledgment of any other person's title to such land or water.
- c. Authorizations may be modified, suspended or revoked in accordance with their terms or the remedies provided in Sections 253.04 and 258.46, F.S., or Chapter 18-14, F.A.C.
- d. Structures or activities shall be constructed and used to avoid or minimize adverse impacts to sovereignty submerged lands and resources.
- e. Construction, use, or operation of the structure or activity shall not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004 and 68A-27.005, F.A.C.
- f. Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity shall be modified in accordance with the court's decision.
- g. Structures or activities shall not create a navigational hazard.
- h. Structures shall be maintained in a functional condition and shall be repaired or removed if they become dilapidated to such an extent that they are no longer functional. This shall not be construed to prohibit the repair or replacement subject to the provisions of Rule 18-21.005, F.A.C., within one year, of a structure damaged in a discrete event such as a storm, flood, accident, or fire.
- i. Structures or activities shall be constructed, operated, and maintained solely for water dependent purposes, or for non-water dependent activities authorized under paragraph 18-21.004(1)(f), F.A.C., or any other applicable law.

[This portion intentionally left blank.]

6. This Emergency Authorization is issued September 28, 2012, by:

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



Jon M. Iglehart  
District Director  
South District Office

JMI/eag

**Attachments:** Project Drawing (1 page)

**Copies furnished to:**  
FWC, Imperiled Species Management Section  
CAMA, Estero Bay Aquatic Preserve  
Lee County Property Appraiser  
ACOE, Fort Myers

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this permit and authorization to use sovereignty submerged lands, including all copies, were mailed before the close of business on September 28, 2012, to the above listed persons.

FILING AND ACKNOWLEDGMENT

FILED, on this date, under 120.52(7) of the Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Marie Vidrine  
Clerk

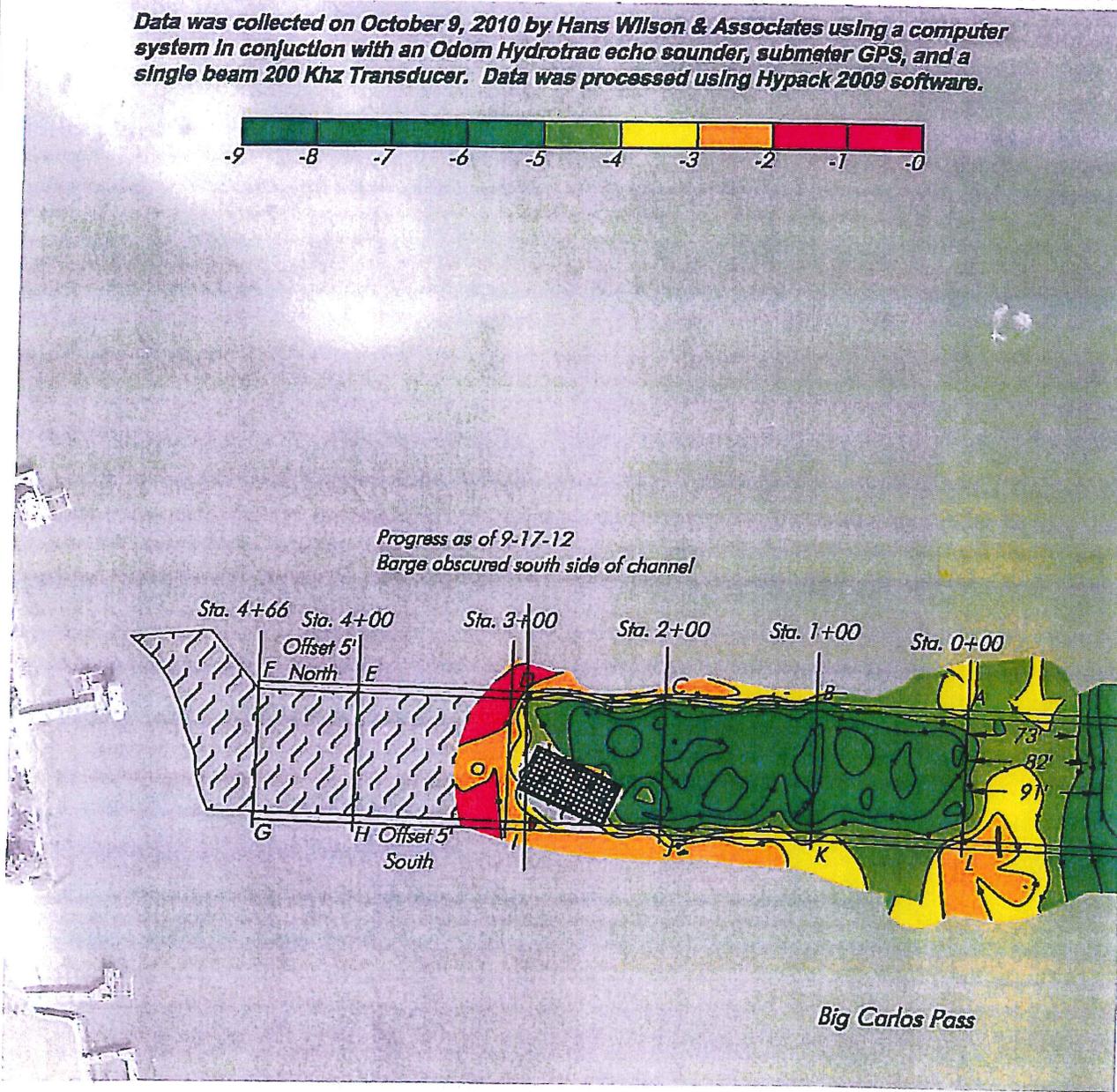
September 28, 2012  
Date

SECTION: 3  
 TOWNSHIP: 47 S  
 RANGE: 24 E

2010 LEE COUNTY AERIAL PHOTOGRAPH

0' 50 100'  
 SCALE FEET

Data was collected on October 9, 2010 by Hans Wilson & Associates using a computer system in conjunction with an Odom Hydrotrac echo sounder, submeter GPS, and a single beam 200 Khz Transducer. Data was processed using Hypack 2009 software.



**Channel Progress: 9-17-12**

SCALE: 1" = 100'

Notes: Depths referenced to Mean Low Water (MLW)  
 per DEP Tide Station 872-5331 Estero Island - Ostego  
 Bay. Bathymetric Survey completed 9-17-12 by HWA.

HANS J.M. WILSON  
 REGISTERED PROFESSIONAL ENGINEER  
 FLORIDA REGISTRATION NO. 39680  
 DATE: September 18, 2012 12:03:48 p.m.  
 Drawing: FMB3MASTER.DWG

**BID PLANS, NOT FOR CONSTRUCTION**

**HANS WILSON & ASSOC., INC.**  
 1938 Hill Ave. Ft. Myers, Florida 33901  
 Tel: 941-334-6870 Fax: 941-334-7810  
 MARINE and ENVIRONMENTAL CONSULTANTS

9-18-12  
 hjmw

**Town of Ft.  
 Myers Beach**

SHEET